

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL MCCURTY,  
Plaintiff,

v.

G. G. LOPEZ, et al.,  
Defendants.

Case No. [21-cv-04600-YGR](#) (PR)

**ORDER REOPENING ACTION;  
LIFTING STAY; AND SETTING  
BRIEFING SCHEDULE**

Plaintiff, a state prisoner currently being held in custody at the California Training Facility (“CTF”), filed a *pro se* civil rights complaint pursuant to 42 U.S.C. § 1983 stemming from alleged constitutional violations at CTF.

In an Order dated August 31, 2022, the Court referred this action and plaintiff’s other pending matter to the Pro Se Prisoner Mediation Program and to stay these cases pending global settlement proceedings. Dkt. 13. In plaintiff’s other pending action, *McCurty v. Madsen*, Case No. 21-cv-05435-YGR (PR), the parties “stipulate[d] to participate in a settlement conference before a federal magistrate.” Dkt. 11 at 1 in Case No. 21-cv-05435-YGR (PR). Thus, the Court noted that it “seem[ed] to be in the best interests of all parties and of the Court to make a concerted effort to see if the parties can resolve both cases together through a global settlement process.” Dkt. 13 at 1 fn. 1. The Order stated that, if necessary, the Court will issue a further briefing scheduling after the settlement proceedings. *Id.* at 2.

On October 15, 2022, the Honorable Judge Robert M. Illman notified the Court that the parties were unable to reach an agreement. Dkt. 18. Accordingly, the Court hereby LIFTS the stay in the instant action, and the Clerk of the Court shall REOPEN the case file. The parties are directed to abide by the new briefing scheduling outlined below.

## CONCLUSION

For the foregoing reasons, the Court orders as follows:

1. The Court LIFTS the stay in the instant action, and the Clerk shall REOPEN the file.
2. The parties shall abide by the following briefing schedule:
  - a. No later than **sixty (60) days** from the date of this Order, defendants shall file a motion for summary judgment, which must be accompanied by a *Rand*<sup>1</sup> notice so that plaintiff will have fair, timely and adequate notice of what is required of him in order to oppose the motion. *Woods v. Carey*, 684 F.3d 934, 935 (9th Cir. 2012). If defendants are of the opinion that this case cannot be resolved by summary judgment, they shall so inform the Court prior to the summary judgment motion deadline.
  - b. Plaintiff's opposition to the motion for summary judgment shall be filed with the Court and served on defendants no later than **twenty-eight (28) days** after the date on which defendants' motion is filed. Plaintiff shall refer to the Court's January 29, 2020 Order of Partial Dismissal and Service for a further explanation on summary judgment. *See* Dkt. 11 at 6-7.
  - c. Defendants shall file a reply brief no later than **fourteen (14) days** after the date the opposition is filed. The motion shall be deemed submitted as of the date the reply brief is due. No hearing will be held on the motion unless the Court so orders at a later date.
3. All communications by the plaintiff with the Court must be served on defendants' counsel by mailing a true copy of the document to defendants' counsel.
4. It is plaintiff's responsibility to prosecute this case. Plaintiff must keep the Court informed of any change of address and must comply with the Court's orders in a timely fashion. Pursuant to Northern District Local Rule 3-11 a party proceeding *pro se* whose address changes while an action is pending must promptly file a notice of change of address specifying the new address. *See* L.R. 3-11(a). The Court may dismiss without prejudice a complaint when: (1) mail directed to the *pro se* party by the Court has been returned to the Court as not deliverable, and

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<sup>1</sup> *Rand v. Rowland*, 154 F.3d 952 (9th Cir. 1998).

(2) the Court fails to receive within sixty days of this return a written communication from the *pro se* party indicating a current address. *See* L.R. 3-11(b).

5. Upon a showing of good cause, requests for a reasonable extension of time will be granted provided they are filed on or before the deadline they seek to extend.

IT IS SO ORDERED.

Dated: October 11, 2022

  
JUDGE YVONNE GONZALEZ ROGERS  
United States District Judge